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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/670,153	09/23/2003	Mark C. Nicely	14522-004001	2854
26181	7590	08/01/2006	EXAMINER	
FISH & RICHARDSON P.C. PO BOX 1022 MINNEAPOLIS, MN 55440-1022			CROSS, ALAN	
			ART UNIT	PAPER NUMBER
			3713	

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/670,153

Applicant(s)

NICELY ET AL.

Examiner

Alan Cross

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1-3, 6, 8-12, 14, 16 and 19-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Tracy, U.S. Patent No. 5,116,055.**

Tracy discloses a system for managing a progressive jackpot. A progressive management device includes an interface (See Tracy Fig. 1). A progressive engine is used for maintaining a progressive (See Tracy col. 3 lines 22-25). The progressive management device is coupled by the interface to a first gaming system and a second gaming system (See Tracy Fig. 1). The first gaming system includes a first set of progressive payout parameters and the second gaming system includes a second set of progressive payout parameters that is different from the first set of progressive payout parameters, the first set of progressive payout parameters including a percentage of a wager amount to be applied to the progressive jackpot. (See Tracy col. 2 lines 10-22; Fig. 2) [claims 1, 21, 23]. For example, a player may win the progressive jackpot by playing poker, or the player may win the jackpot by playing a three-reel slot. Each of these two games has different parameters that need to be met in order to win the progressive jackpot. The progressive management device is operable to, in response

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to receiving a wager amount from the first gaming system, change the percentage of the wager amount to be applied to the progressive jackpot such that a product of a wager amount necessary to participate in a progressive jackpot, an odds of winning the progressive jackpot and the changed percentage of the wager amount to be applied to the progressive jackpot is equal for the first and second gaming system (See Tracy col. 2 lines 32-36; col. 3 lines 57-65; col. 4 lines 20-48) [claims 1]. The progressive management device further comprises an analysis engine operable to examine a plurality of gaming systems and progressive payout parameters and an integrator operable to integrate progressive games having different progressive payout parameters into a single progressive jackpot (See Tracy col. 2 lines 10-41) [claims 2, 10, 22]. The progressive management device is coupled to the gaming systems through a network (See Tracy Figure 1) [claim 3]. The progressive management device is operable to provide information on the progressive game to user gaming interfaces, wherein the information includes the value of the progressive jackpot (See Tracy Fig. 1; col. 3 lines 25-30) [claim 6]. The progressive is reset when a user attains a progressive (See Tracy col. 3 lines 35-38) [claims 8]. Torango further discloses a method for including systems having different progressive payout parameters into the same progressive jackpot. A progressive game is initiated (See Tracy col. 3 lines 12-22). A first gaming system and a second gaming system are provided to participate in a progressive jackpot (See Tracy Fig. 1). The first gaming system has a first set of progressive payout parameters and the second gaming system has a second set of progressive payout parameters that is different from the first set of payout parameters

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(See Tracy col. 2 lines 10-22; Fig. 2). The percentage of the wager amount to be applied by each gaming machine to the progressive is changed in response to a received wager amount. The changing is based on the first and second sets of progressive payout parameters (See Tracy col. 2 lines 32-36; col. 3 lines 57-65; col. 4 lines 20-48) [claim 9]. For example, it is based in part on the Hit Frequency and the number of coins inserted to play the progressive. The percentage of the wager amount to be applied to each gaming system is selected/adjusted such that the product of progressive payout parameters of the wager amount necessary to participate in the progressive jackpot, the odds of winning the progressive jackpot, and the percentage of the wager amount to be applied to the progressive jackpot are equal for each gaming system (See Tracy col. 2 lines 32-36; col. 3 lines 57-65; col. 4 lines 20-48) [claims 9, 11, 14, 15, 19, 21, 23]. The progressive payout parameters include game odds (See Tracy Fig. 2; col. 2 lines 44-45) [claim 12]. The system further includes a progressive management device coupled to a gaming server. The gaming server including two or more gaming stations, wherein a first of the gaming stations includes a first set of payout parameters and a second station includes a second set of progressive payout parameters that is different from the first set of payout parameters (See Tracy Fig. 1; col. 2 lines 10-22; col. 3 lines 12-22) [claim 14]. Furthermore, Tracy discloses a method for validating progressive payout parameters in gaming systems participating in a progressive jackpot. The progressive parameters of the gaming system are validated including verifying that game odds and a payoff are consistent and within predetermined criteria and including validated gaming systems in the progressive jackpot (See Torango

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¶0100-¶0102) [claim 16]. A method for determining a progressive outcome is disclosed. Data is received at a progressive management device concerning a wager amount placed by a user of a participating gaming system. The percentage of the wager to be applied to a progressive jackpot is changed in response to the received data based on progressive payout parameters analysis. The progressive payout parameters including game odds and wager amounts (See Tracy Fig. 2). The progressive jackpot is incremented by the selected percentage of the wager amount (See Tracy col. 4 lines 13-41). A random number generator calculation is executed using the odds from the gaming system progressive payout parameters. The results of the random number generator calculation are transmitted to a participating gaming system (See Tracy Fig. 2) [claims 19, 23]. The percentage of a wager to be applied to a progressive jackpot is determined through retrieval of previous analysis results from a database (See Tracy Fig. 2; col. 4 lines 12-41) [claim 20]. It is inherent that Tracy uses a computer program product stored on a computer readable medium to execute the aforementioned steps on a programmable processor (See Tracy Fig. 1) [claims 21 & 23]. A first component is operable to identify a source gaming system associated with a received wager amount. A second component is operable to select the percentage of the received wager amount to apply to the progressive jackpot and to apply the selected percentage of the wager amount to the progressive jackpot (See Tracy col. 3 lines 12-67) [claims 24, 26]. Changing the percentage of a wager amount to be applied to the progressive jackpot for each received wager amount includes identifying a source gaming system of the received wager amount, selecting an appropriate percentage of the received wager

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amount to apply to the progressive jackpot and applying the appropriate percentage of the wager amount to the progressive jackpot (See Tracy col. 4 lines 12-41) [claims 25, 27-29].

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 4, 13, 15, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tracy in view of Torango, U.S. Patent Application Publication No. 2003/0060279 A1.** As mentioned above, Torango discloses that one or more gaming systems are included in the progressive jackpot by changing the percentage of a wager amount applied to the progressive jackpot for each gaming system such that a product of a wager amount to participate in a progressive jackpot, an odds of winning the progressive jackpot, and a percentage of the wager amount to be applied to the progressive jackpot is equal to a constant (See Tracy col. 4 lines 12-48). For each received wager amount, a source of the gaming system of the received wager amount is identified, a percentage of the received wager amount to apply to the progressive jackpot is selected and the percentage of the wager amount is applied to the progressive jackpot (See Tracy col. 3 lines 45-67) [claim 15]. Tracy lacks in disclosing a

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currency conversion device and that the progressive payout parameter includes a currency type. Torango teaches of a progressive management device including a currency conversion device for converting data provided from one of the gaming systems into a predetermined currency (See Torango ¶¶0124-¶0125) [claim 4]. The progressive payout parameter furthermore, includes a currency type (See Torango ¶0129) [claim 13]. Torango further teaches of a server, which is a shared computer on the local area network and may be used as the gatekeeper for controlling data. As seen in Figure 1, the system can be considered to have a game server, item 102. Torango further discloses a method for including gaming systems having different currency types to a progressive. Input is received from gaming servers participating in a progressive jackpot. The characteristics of each gaming system are analyzed including the currency type of the gaming system. The currency type of each gaming system is converted into a standard currency (See Torango ¶0129) [claim 15]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to allow the device of Torango to accept different currencies so that players throughout the world could play the gaming machine without being hindered by having to first convert their currency into one standard unit. By allowing a gaming device to accept multiple currencies, the gaming device can be implemented throughout the world without having to be altered and therefore more people could play the game.

While Tracy does disclose a computer network and the controller can be considered a server, the system lacks in disclosing a plurality of servers. Torango teaches of a system that includes a plurality of gaming systems including a first and



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second gaming server (See Torango, Fig. 1 items 103A-C can be considered servers).

A progressive management server is coupled through a network to the first gaming server and the second gaming server, the first gaming server belongs to a first enterprise and the second gaming server belongs to a second enterprise. Each enterprise of the first and second enterprises include one or more gaming systems being coupled to one of the first or the second gaming servers (See Torango Fig. 1) [claim 17]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include multiple servers connected to the gaming machines. By including more servers, more gaming machines can be connected to the progressive jackpot and more players would have the chance to win the jackpot. Furthermore, the jackpot would be larger since more players are competing for it, which would make the game more enjoyable to players.

**Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tracy in view of Torango '279 in view of Torango, U.S. Patent No. 6,241,608 B1.** Torango '279 lacks in disclosing that the currency conversion is performed in real-time. Torango '608 teaches that the currency conversion is performed in real-time (See Torango '608 col. 18 lines 52-54) [claim 5]. For example, the conversion is performed with the updated currency exchange rates. It would have been obvious to one of ordinary skill in the art at the time the invention was made to perform the currency exchange rates of Torango '279 in real time so that accurate exchange rates are used. By using accurate up to the minute exchange rates, the players and the casino benefit from using the correct rates so that no one is disadvantaged by using invalid rates.

**Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tracy in view of Kelly et al., U.S. Patent No. 6,454,648 B1.** Tracy lacks in disclosing that the information is provided to the user gaming interfaces in real-time. Kelly teaches of a progressive game system in which information is provided to the user gaming interfaces in real-time (See Kelly col. 15 lines 58-66). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the information in real-time in the invention of Tracy. By providing the information in real-time, the player is aware of the current status of the game and can then wager accordingly. Furthermore, the player is kept updated as to the current jackpot value, which may interest the player in continuing to play the game.

#### ***Response to Amendment***

It has been noted that claims 1, 9, 11, 14, 15, 19, 21, 23, 24, 25, 26, 27, 28, 29 have been amended.

#### ***Response to Arguments***

Applicant's arguments, filed January 10, 2006, with respect to the rejection(s) of the claim(s) under Tracy have been fully considered and are not persuasive with respect to the limitations concerning changing a percentage of the wager amount to be applied to the progressive jackpot. The claim rejections under 35 USC 112 have been withdrawn per the amendments. Tracy does disclose changing the percentage of the wager amount this changes the percentage by making the gaming machines equal by

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monitoring the wager the translator adjusts the % of JP so that the \$ of JP can be approximated between machines to make the % wagered between machines equal. The coin is what is being wagered so it is therefor the wager. As stated in (Tracy, col. 2, lines 32-42) the translator adjusts the coin/pulse info to adjust the percentage to the jackpot, whereby Tracy changes the percentage of wager amount applied to the jackpot per what is wagered and the amount wagered on the other machines.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alan Cross whose telephone number is 571-272-5529. The examiner can normally be reached on 8-4 M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
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SUPERVISORY PATENT EXAMINER  
TC3702